

**In the United States District Court  
Southern District of Indiana, Indianapolis Division**

**SHIRLEY RELFORD,**

Plaintiff

File No.

Vs

**UPSTATE LAW GROUP, LLC.**

Defendant

\_\_\_\_\_ /

**Complaint**

Comes now, Shirley Relford, by counsel for his complaint against defendant Upstate Law Group, LLC states as follows: (Unless otherwise indicated, all facts apply to all counts.)

**STATEMENT OF JURISDICTION AND VENUE**

1. Jurisdiction of this court arises under 28 USC §1331. Supplemental jurisdiction exists for the state law claims under 28 U.S.C. §1367
2. Venue is proper as the plaintiff for all times relevant to this lawsuit was a resident of Marion County, Indiana. Defendant Upstate Law Group, LLC is a South Carolina Limited Liability Company that knowingly directed consumer collections communication to the plaintiff in Indiana using means of interstate commerce. The harm occurred in Indianapolis, Marion County, Indiana.

**INTRODUCTION**

3. This action is brought by the plaintiff, a natural person who at the time she received the communications from the defendant at issue in this lawsuit was seventy-nine years old. She resided in Indianapolis, Indiana at all times relevant to this lawsuit.

4. The plaintiff was short on money and entered into a contract with Voyager Financial Group (hereafter VFG) whereby VFG would broker a transaction wherein Shirley Relford would receive \$20,000 in exchange for pledging \$450 per month of her General Motors pension for 96 months as “security” for the \$20,000 received by Ms. Relford. VFG arranged for a William Epps to fund the \$20,000. Though this arrangement was touted as a structured settlement or “security agreement”, in essence it was no different from Ms. Relford’s position than a consumer installment loan. The de-facto interest rate on the loan based on the terms above was 22.44 percent APR.

5. Sometime in early 2014, Ms. Relford cancelled the assignment of funds from her General Motors Pension. This resulted in VFG working with Mr. Epps to attempt to collect from Ms. Relford the money they claimed.

6. The Upstate Law Group regularly collected consumer debts. On or about April 22, 2013, the Arkansas Securities Department filed an administrative action against Voyager Financial Group, LLC, and its principals [Case 8-12-0015] Requesting a Cease and Desist order against the respondents relating to the sale of pension factoring contracts to downstream investors. The complaint asserted that when a retiree defaulted on payments under the contracts “VFG offers the services of Buttonwood Insurance Services and Upstate law Group to attempt remediation.”

### **Count I – Fair Debt Collection Practices Act, 15 USC 1692**

7. Plaintiff Shirley Relford is a “consumer” for purposes of 15 USC §1692(a)3.

8. Upstate Law Group LLC and its employed attorney, Nate Molle are “debt collectors” for the purposes of 15 USC §1692(a)6 as persons who use instruments of interstate commerce or the

mails in a business, the principal purpose of which is the collection of any debts or who regularly collect or attempt to collect directly or indirectly debts owed or due or asserted to be owed or due another.

9. On or about August 20, 2014, defendant Upstate Law Group, LLC, through its employed attorney and agent, Nate Molle, sent a letter through the U.S. mail to the plaintiff, which was received within a few days thereafter. A copy of the letter is attached and incorporated as **Exhibit A**. That letter attempted to collect \$900 in payments which were claimed to be due William N. Epps., Jr., who was the purchaser of the VFG pension factoring contract signed by Ms. Relford

10. The letter identified in paragraph 9 contained the notice required by 15 USC 1692g specifically **\*\*NOTICE\*\*** The Upstate Law Group, LLC is a law firm engaged to collect this debt for William N. Epps Jr.. This law firm is located at 200 East Main Street, in Easley, South Carolina 29649. Any information obtained from you will be used to effect collection of the debt for William n. Epps., Jr. [next paragraph] **Unless you, within thirty days after receipt of this notice, dispute the validity of this debt, or any portion thereof, this debt will be assumed to be valid. If you notify this office in writing within the thirty-day period that this debt, or any portion thereof, is disputed, this office will obtain verification of this debt and a copy of such verification will be mailed to you by this office. Upon your written request within the thirty-day period, we will provide you with the name and address of the original creditor, if different from the current creditor.** [bold-face as in original]

11. Prior to the “g” notice in the paragraph above the August 20 letter contained the following text. “Second, if you fail within seven (7) days from the date of this letter to assist us in correcting this problem, we will assume that you have intentionally breached the agreement

and we will assist William N. Epps, Jr. in pursuing all legal avenues available to enforce William N. Epps, Jr.'s rights under this agreement, including bringing all legal actions available to gain a civil judgment and/or restitution to enforce William N. Epps, Jr.'s rights under this contract. TO THOSE ENDS, IT IS IMPERATIVE THAT YOU CONTACT ME IMMEDIATELY TO CURE YOUR BREACH OF THESE AGREEMENTS.” [All caps and underline as in original]

12. The August 20, 2014 communication violates the Fair Debt Collection Practices Act in the following respects:

- a. The “G” 30 day notice is overshadowed by the text demanding “immediate” contact and efforts to cure within 7 days of the date of the letter.
- b. Attorney Nate Molle is not (and was not at the time of the letter) licensed to practice law in Indiana. No other attorney employed by the Upstate Law Group, LLC is licensed to practice law in Indiana. As such, the use of attorney letterhead without appropriate disclaimers misrepresents the involvement of an attorney [15 USC 1692e7] and/or it amounts to a threat of an action that cannot be legally taken or which there is no intention to take. [15 USC 1692e5]
- c. The underlying account is an illegal contract in that is a consumer loan that was originated by a lender who was not registered with the Indiana Department of Financial Institutions or covered by an exception, or was a Loan Broker not registered per Indiana Code 23-2 et seq. Pursuant to this chapter, a contract originated through an illegal loan broker is void. [I.C. 23-2-15-15] A claim of funds due therefore misrepresents the character, amount or status of the debt in violation of 15 USC e2(a).



13. The defendant sent the plaintiff a follow up letter by United States Mail. The letter, dated September 8, 2014 is attached and incorporated as Exhibit B. The plaintiff received the letter shortly after that date.

14. The September 8 letter also attempts to collect a debt alleged to be owed to Willim N. Epps, Jr. However, this letter asserts that the amount owed is the expected income streams from July 1, 2014 through September 1, 2014 amounting to \$1,350.00. This letter also demands action within 7 days from the date of the letter. Seven days from the date of the letter, or September 15, 2015 would have still been within the 30 day period of the dispute rights of the first letter. The notice section of the September 8, letter reflects as much, stating “Unless you, within thirty days after receipt of the first notice dated August 20, 2014 dispute the validity of this debt or any portion thereof, this dispute will be assumed to be valid.”

15. The September 20, 2014 communication violates the Fair Debt Collection Practices Act in the following respects:

a. The “G” 30 day notice is overshadowed by the text demanding “immediate” contact and efforts to cure within 7 days of the date of the letter.

b. Attorney Nate Molle is not (and was not at the time of the letter) licensed to practice law in Indiana. No other attorney employed by the Upstate Law Group, LLC is licensed to practice law in Indiana. As such, the use of attorney letterhead without appropriate disclaimers misrepresents the involvement of an attorney [15 USC 1692e7] and/or it amounts to a threat of an action that cannot be legally taken or which there is no intention to take. [15 USC 1692e5]

c. The underlying account is an illegal contract in that is a consumer loan that was originated by a lender who was not registered with the Indiana Department of Financial Institutions or covered by an exception, or was a Loan Broker not registered per Indiana Code

23-2 et seq. Pursuant to this chapter, a contract originated through an illegal loan broker is void.

[I.C. 23-2-15-15] A claim of funds due therefore misrepresents the character, amount or status of the debt in violation of 15 USC e2(a).

16. Due to the communications above, the plaintiff suffered emotional distress for which she is not seeking damages separate from the statutory damage remedy.

WHEREFORE the plaintiff seeks statutory damages, attorney fees and such other relief just and proper under the circumstances.

### **Count II – Indiana Deceptive Consumer Sales Act (IDCSA)**

17. The defendant is a “supplier” for purposes of IC 24-5-0.5-2.

18. The plaintiff is a “senior consumer” for the purposes of IC 24-5-0.5-2(a)11.

19. The letters dated August 20, 2014 and September 8, 2014 referenced above are “consumer transactions for purposes of IC 24-5-0.5-2(a)1(c).

20. I.C. 24-5-0.5-3B(20) provides that a violation of the Fair Debt Collection Practices Act constitutes a “deceptive act” for purposes of IC 24-0.5.

21. In the alternative, the deceptive act was part of a scheme device or artifice with intent to defraud making the collection letters an incurable deceptive act, with the intent being inferred from the facially inconsistent time periods of 30 days to dispute and 7 days to respond to the collection letter which demonstrate a knowledge of the statutory 30 day dispute framework and a conscious disregard of it in demanding action from the consumer before the dispute time elapsed.

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22. The letters dated August 20, 2014 and September 8, 2014 were per-se violations of the Fair Debt Collection Practices Act, they are “incurable” deceptive acts for purposes of the IDCSA.

23. Plaintiff by counsel gave defendant notice of deceptive act and opportunity to cure by letters dated September 23 and December 15, 2014, but no offer to cure was tendered, rendering the letters uncured deceptive acts.

24. Wherefore, the plaintiff seeks statutory damage of \$1,000 for a willful violation of the IDSCA, with those damages tripled due to plaintiff’s status as an “elderly person” relying on an uncured or incurable deceptive act, for a total statutory damages claimed under the IDCSA of \$3,000.

Wherefore, plaintiff claims \$1,000 in statutory damages under the Fair Debt Collection Practices Act, \$3,000 under the Indiana Deceptive Consumer Sales Act, a reasonable attorney fee, costs, and any other relief just and proper.

Respectfully Submitted,

/S/ Steven R. Hofer

Steven R. Hofer,  
Counsel for the Plaintiff, Shirley Relford

Steven R Hofer, Indiana Bar 11584-49  
Consumer Law Office of Steve Hofer  
8888 Keystone Crossing, Suite 1300  
Indianapolis, IN 46240  
(317) 662-4529  
[hoferlawindy@gmail.com](mailto:hoferlawindy@gmail.com)

I certify that I have redacted social security numbers and other personal identifiers from the documents submitted.

/S/ Steven R. Hofer

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Steven R. Hofer





Candy M. Kern-Fuller, Esq.  
Managing Partner  
Howard E. Sutter, III, Esq.  
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200 EAST MAIN STREET  
EASLEY, SOUTH CAROLINA 29640

www.UPSTATELAWGROUP.com  
864.855.3114 (ph) • 864.855.3446 (fax)

August 20, 2014

**VIA EMAIL AND CERTIFICATE OF MAILING**

Shirley Relford  
1844 Dayton Ave.  
Indianapolis, IN 46203

**Re:** Your breach of Contract regarding payments to William N. Epps, Jr.

Dear Shirley Relford:

As you are aware, Security Title Agency services the escrow payments for William N. Epps, Jr. regarding the transaction you entered into pertaining to a purchase of income stream proceeds from your GM Pension funds.

Beginning July 1, 2014, this agreement went into default when the contracted for payments ceased being directed to this escrow account for the Buyer's benefit. Pursuant to this contract, you were advanced significant funds in exchange for the monthly income stream proceeds. In return, pursuant to the Contract for Sale of Payments, you agreed that you would direct this income stream asset to be deposited into this agreed upon escrow account and then to have those proceeds distributed to the Buyer in the amount of \$450.00 per month for a period of 8 years (through May 1, 2019). You further agreed that you would not intentionally or unintentionally impair the payments or redirect them to your own benefit.

Despite several attempts by your case manager at VFG to reach you, this matter remains unresolved. As a result, it is my understanding that you have received all the income streams from July 1, 2014 through August 1, 2014 and continuing (currently totaling \$900.00), that were supposed to be directed to an escrow account for the benefit of William N. Epps, Jr.

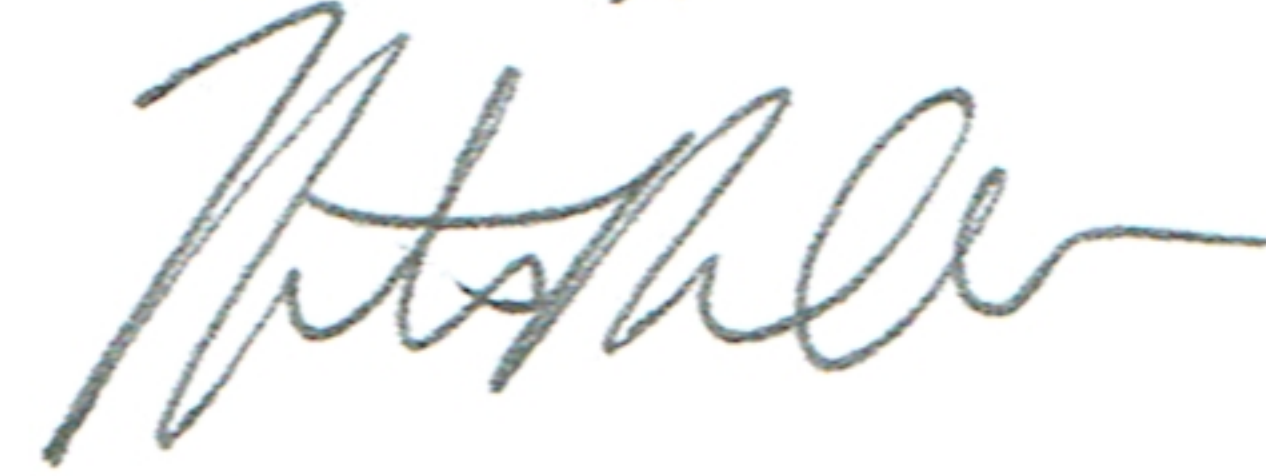
It is our hope that these matters are a simple oversight, administrative error or misunderstanding. Assuming such, the purpose of my letter is two-fold. First, if this is the simple misunderstanding or administrative error we all hope that it is, then you need to contact my firm immediately with current contact information and your VFG case number, but in no event later than seven (7) days from the date of this letter, to assist us in correcting these problems. Second, if you fail within seven (7) days from the date of this letter to assist us in correcting this problem, we



will assume that you have intentionally breached the agreement and we will assist William N. Epps, Jr. in pursuing all legal avenues available to enforce William N. Epps, Jr.'s rights under this agreement, including bringing all legal actions available to gain a civil judgment and/or restitution to enforce William N. Epps, Jr.'s rights under this contract.

TO THOSE ENDS, IT IS IMPERATIVE THAT YOU CONTACT ME IMMEDIATELY TO CURE YOUR BREACH OF THESE AGREEMENTS.

Sincerely,



Nate Molle  
Attorney at Law

**\*\* NOTICE \*\***

The Upstate Law Group, LLC, is a law firm engaged to collect this debt for William N. Epps, Jr.. This law firm is located at 200 East Main Street, in Easley, South Carolina 29640. Any information obtained from you will be used to effect collection of the debt for William N. Epps, Jr.

Unless you, within thirty days after receipt of this notice, dispute the validity of this debt, or any portion thereof, this debt will be assumed to be valid. If you notify this office in writing within the thirty-day period that this debt, or any portion thereof, is disputed, this office will obtain verification of this debt and a copy of such verification will be mailed to you by this office. Upon your written request within the thirty-day period, we will provide you with the name and address of the original creditor, if different from the current creditor.





Candy M. Kern-Luffer, Esq.  
Managing Partner  
Howard E. Sutter, III, Esq.  
Partner  
Nicole L. Thornton, Esq.  
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200 EAST MAIN STREET  
EASLEY, SOUTH CAROLINA 29640

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864.855.3114 (ph) • 864.855.3446 (fax)

September 8, 2014

**VIA EMAIL AND CERTIFICATE OF MAILING**

Shirley Relford  
1844 Dayton Ave.  
Indianapolis, IN 46203

**Re:** Your breach of contract regarding payments to William N. Epps, Jr.

Dear Shirley Relford:

Please be advised that I represent William N. Epps, Jr. regarding the transaction you entered into pertaining to a purchase of income stream proceeds from your GM Pension funds.

Since you entered into that agreement, it is my understanding that you have defaulted on this agreement. Pursuant to this agreement, you were advanced monies by William N. Epps, Jr. in exchange for income stream proceeds in the amount of \$450.00 per month for a period of 8 years (through May 1, 2019).

Pursuant to the Contract for Sale of Payments, you agreed that you would direct your income to be deposited into an agreed upon escrow account that distributed those proceeds to William N. Epps, Jr. and that you would not intentionally or unintentionally impair the payments or redirect them to your own benefit.

However, at some point after you signed the purchase agreement with William N. Epps, Jr. and received a significant lump sum up front, your GM Pension funds were misdirected to an account other than that escrow account. Despite several contacts, you have failed and refused to correct these matters. As a result, it is my understanding that you have received all the income streams from July 1, 2014 through September 1, 2014 and continuing (currently totaling \$1,350.00), that were supposed to be directed to an escrow account for the benefit of William N. Epps, Jr..

It is our hope that these matters are a simple oversight, administrative error, or misunderstanding. Assuming such, the purpose of my letter is two-fold. First, if this is the simple misunderstanding or administrative error we all hope that it is, then you need to contact me immediately, but in no event later than seven (7) days from the date of this letter, to assist us in



assist us in correcting this problem. we will assume that you have intentionally breached the agreement and we will assist William N. Epps, Jr. in pursuing all legal avenues available to enforce William N. Epps, Jr.'s rights under this agreement. including bringing all legal actions available to gain a civil judgment and/or restitution to enforce William N. Epps, Jr.'s rights under this contract.

TO THOSE ENDS. IT IS IMPERATIVE THAT YOU CONTACT ME IMMEDIATELY TO CURE YOUR BREACH OF THESE AGREEMENTS.

Sincerely,



Nate Molle  
Attorney at Law

**\*\* NOTICE \*\***

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Unless you, within thirty days after receipt of the first notice dated August 20, 2014, dispute the validity of this debt, or any portion thereof, this debt will be assumed to be valid. If you notify this office in writing within the thirty-day period that this debt, or any portion thereof, is disputed, this office will obtain verification of this debt and a copy of such verification will be mailed to you by this office.



Signature of Clerk or Deputy Clerk

Civil Action No. 1:15-CV-01213

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA**

**CIVIL COVER SHEET**

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law.

**Plaintiff(s):**

**First Listed Plaintiff:**

Ms. Shirley Relford ;

**County of Residence:** Marion County

**Defendant(s):**

**First Listed Defendant:**

Upstate Law Group, LLC ;

**County of Residence:** Outside This District

**County Where Claim For Relief Arose:** Marion County

**Plaintiff's Attorney(s):**

Mr. Steven R Hofer (Shirley Relford)

Consumer Law Office of Steve Hofer

8888 Keystone Crossing, Suite 1300

Indianapolis, Indiana 46240

**Phone:** 317-662-4529

**Fax:** 317-559-4055

**Email:** hoferlawindy@gmail.com

**Defendant's Attorney(s):**

**Basis of Jurisdiction:** 3. Federal Question (U.S. not a party)

**Citizenship of Principal Parties (Diversity Cases Only)**

**Plaintiff:** N/A

**Defendant:** N/A

**Origin:** 1. Original Proceeding

**Nature of Suit:** 480 Fair Credit Reporting Act or Fair Debt Collection Practices Act

**Cause of Action:** 15:1692 Fair Debt Collection Practices Act, 15 USC 1692, Defendant allegedly sent letters that overshadowed dispute rights and more.

**Requested in Complaint**

**Class Action:** Not filed as a Class Action

**Monetary Demand (in Thousands):** 4

**Jury Demand:** Yes

**Related Cases:** Is NOT a refiling of a previously dismissed action

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**Signature:** /S/ Steven R. Hofer

**Date:** 8/3/2015

If any of this information is incorrect, please close this window and go back to the Civil Cover Sheet Input form to make the correction and generate the updated JS44. Once corrected, print this form, sign and date it, and submit it with your new civil action.